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**MAILED**

**JUN 16 2010**

In re Application of	:	<b>OFFICE OF PETITIONS</b>
John M. Fenderson et al	:	
Application No. 09/990,570	:	<b>RESPONSE TO PETITION</b>
Filed: November 21, 2001	:	
Attorney Docket No. 38867/240561	:	

This is a response to the petition under 37 CFR 1.59(b), filed February 10, 2010, to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that the document entitled HERBICIDAL COMPOSITIONS COMPRISING DIMENTHENAMID AND DIKETONE OR TRIKETONE HERBICIDES (original letters patent), filed March 16, 2005 be expunged from the record.

However, the petition is premature since prosecution of the application has not been closed by way of the allowance of the application, the mailing of an Ex parte Quayle action, or the abandonment of the application. See MPEP 724.06. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material and the conditions related to the expungement of unintentionally submitted information, discussed as A-F in MPEP 724.05 II, are satisfied, the information will be removed from the official file.

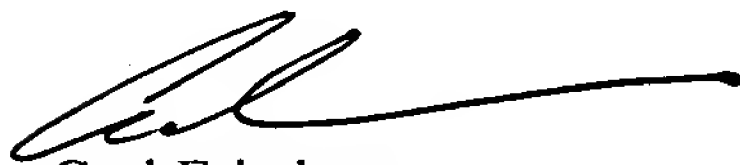
After the mailing of a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment, the petition to expunge may be renewed by applicant(s) or applicant(s)' representative. No further fee is required for such a second submission of a petition under 37 CFR 1.59 to expunge information. **In addition, the requester is cautioned to renew the petition under 37 CFR 1.59 for reconsideration by the Office prior to the point at which the**

**present file, or file claiming priority to the present file, is forwarded for issuance of the patent. This is to be done no later than immediately after the examiner has issued a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment. A failure to timely renew the petition to expunge prior to the point at which the file is forwarded for issuance will result in the material being retained in the patented file and thus becoming open to the public.**

The petition fee set forth in 37 CFR 1.17(g) has been charged to petitioner's deposit account.

The application is being referred to Technology Center AU 1616.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

A handwritten signature in black ink, appearing to read 'C. Friedman', with a long horizontal flourish extending to the right.

Carl Friedman  
Petitions Examiner  
Office of Petitions